

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 3530 of 1998

&

FIRST APPEAL NO.3920 OF 1998

For Approval and Signature:

Hon'ble MR.JUSTICE R.BALIA.

and

MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

AHMEDABAD MUNICIPAL CORPORATION

Versus

INDIAN BANK

Appearance: IN BOTH MATTERS

MR SK JHAVERI for Petitioner

MR DHARMESH V SHAH for Respondent No. 1

CORAM : MR.JUSTICE R.BALIA. and

MISS JUSTICE R.M.DOSHIT

Date of decision: 17/11/1999

ORAL JUDGEMENT

These two appeals are filed against the common order and are decided by this common order.

The short issue raised in this case is whether the property tax payable under the BPMC Act if directly paid to the Corporation by the tenant is liable to be included in the rental value of the property for the purpose of assessment of rateable value for the purpose of raising the tax. The Small Cause Court at Ahmedabad, in the two orders under appeal, has held that the direct deposit of the tax can not be taken into consideration for determining ratable value.

Both the learned counsels for the parties state that a Full Bench of this court in MUNICIPAL CORPORATION OF THE CITY OF AHMEDABAD VS CANARA BANK ,1992 {2} GLR, 1086 has concluded the controversy by holding that such direct deposit of tax can not be treated differently from the tax which is paid to the landlord and can not be taken out of consideration for determination of ratable value. In view thereof, the orders under challenge, must be held to be error.

The appeals are allowed and impugned order is quashed and set aside. The rateable value determined by the Corporation shall stand restored. There shall be no order as to costs.

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JOSHI